

House Bill 1198

By: Representatives Knight of the 126<sup>th</sup> and Lunsford of the 110<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and  
2 natural resources, so as to change certain provisions relating to powers and duties of the  
3 Environmental Protection Division of the Department of Natural Resources as to surface  
4 mining generally and the division's discretion to decline to enforce certain provisions  
5 relating thereto; to change certain provisions relating to permits for surface mining  
6 operations, submission of mining land use plans and amendments thereto, and bonding; to  
7 provide for monitoring of privately owned wells near rock quarries; to provide for certain  
8 penalties and presumptions relating to rock quarrying; to change provisions relating to civil  
9 penalties relative to surface mining violations, procedure for imposing penalties, hearings,  
10 judicial review, and disposition of recovered penalties; to change certain provisions relating  
11 to exemptions from certain provisions for control of soil erosion and sedimentation; to  
12 provide an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
16 resources, is amended by revising Code Section 12-4-73, relating to powers and duties of the  
17 Environmental Protection Division of the Department of Natural Resources as to surface  
18 mining generally and the division's discretion to decline to enforce certain provisions relative  
19 thereto, as follows:

20 "12-4-73.

21 (a) The division shall have the following powers and duties:

22 (1) To administer and enforce this part and all reasonable rules and regulations  
23 promulgated under this part to issue such orders as may be necessary to enforce  
24 compliance therewith;

25 (2) To examine and pass upon permit applications of operators;

26 (3) To examine and pass upon surface mining land use plans submitted by operators;

1 (4) To make investigations and inspections;

2 (5) To revoke permits, deny renewals, and forfeit bonds or cash of mine operators who  
3 refuse to carry out their plans of mining land use or violate any provision of this part,  
4 rules or regulations promulgated pursuant to this part, or conditions of any permit issued  
5 pursuant to this part;

6 (5.1) To pursue and enforce civil penalties against mine operators as provided in this  
7 part;

8 (6) To collect information on surface mining and mining land use plans;

9 (7) To collect, publish, and distribute information on mining land uses;

10 (8) To accept moneys that are available from government units and private  
11 organizations;

12 (9) To conduct research studies of mining land uses;

13 (10) To carry out land use projects on land where bonds or cash have been forfeited,  
14 using funds available for such purposes;

15 (11) To institute and prosecute all such court actions as may be necessary to obtain the  
16 enforcement of any order issued by the division in carrying out this part; and

17 (12) To exercise all incidental powers necessary to carry out the purposes of this part.

18 (b) The powers and duties described in this Code section may be exercised and performed  
19 by the division through such duly authorized agents and employees as it deems necessary  
20 and proper.

21 (c) The division may decline to assert jurisdiction under this part over any class or  
22 category of mines where, in the opinion of the division, the effect of the operations of such  
23 mines is not sufficiently substantial to warrant the exercise of jurisdiction under this part;  
24 provided, however, that the division shall not decline to assert such jurisdiction over rock  
25 quarries."

## 26 SECTION 2.

27 Said title is further amended by revising paragraph (3) of Code Section 12-4-75, relating to  
28 permits for surface mining operations, submission of mining land use plans and amendments  
29 to plans, and bonding, as follows:

30 "(3) To file a bond with the director within 60 days after the date of being furnished  
31 approved surety bond forms by the division; provided, however, that any mining operator  
32 who desires to be exempted from the bonding requirement shall request an exemption  
33 from such bonding requirement from the director, whereupon a mining operator may be  
34 exempted from such bonding requirement at the discretion of the director. Any mining  
35 operator who has been granted an exemption from the bonding requirement and who  
36 subsequently violates any of the provisions of this part or the rules and regulations

promulgated under this part, or who defaults on his obligations under any mining land use plan, may be required by the director to post a bond in accordance with this paragraph. Any bond filed with the director shall be written by a surety approved by the director and authorized to transact business in this state. Such bond shall be fixed by the director in an amount not more than \$2,500.00 per acre, or fraction thereof, of the area of affected land; provided, however, that the bond for rock quarries shall be not less than \$2,500.00 per acre and not more than \$5,000.00 per acre, or fraction thereof, of the area of affected land. Such bond shall further be payable to the Governor and conditioned upon the faithful performance of the requirements set forth in this part and the rules and regulations promulgated pursuant to this part. Mining operators shall have the option of posting bond, government securities, cash, or any combination thereof on each mined area. In determining the amount of bond, government securities, or cash within the above limits, the director shall take into consideration the character and nature of the land reclamation requirements as approved in the operator's mining land use plan. For each permit, the director shall review and reevaluate at least every five years the site operation, objectives of the land use plan, and estimated cost factors for completion of the plan and shall require adjustments to bonding amounts as may be necessary to ensure adequate funding for site reclamation. The bond, government securities, or cash shall be held by the division until the affected land or any portion thereof is satisfactorily reclaimed, in the opinion of the director, at which time the bond, government securities, or cash or portion thereof shall be terminated or returned to the mining operator, provided that where a mining operator fails or refuses to complete any of his responsibilities under a mining land use plan and the bond, government securities, or cash are consequently recovered upon or forfeited, the director may expend as he deems appropriate that portion of such recovered or forfeited funds as is necessary to complete such mining operator's responsibilities under the mining land use plan. A mining operator, upon approval of an amended mining land use plan, shall file with the director the appropriate bond, government securities, or cash to cover the plan as amended, unless otherwise exempted from the bonding requirement."

### SECTION 3.

Said title is further amended by adding a new Code section to read as follows:

"12-4-75.1.

(a) The division shall provide for monitoring of any privately owned water well located within four miles of the affected land of any rock quarry for which a surface mining permit is required under this part, upon the request of the owner of such well, in order to monitor flow and levels of contaminants that may be associated with rock quarrying activities.

Such monitoring shall be performed by the division or by a qualified contractor, other than the mining operator, selected by the division. The division shall provide a written analysis of the results of such monitoring not less frequently than monthly to the requesting well owner and to the mining operator. The mining operator shall be liable to the division for all costs of such monitoring, analysis, and reporting and shall reimburse the division for the same.

(b) The flow rate and level of contaminants as reported in the first monthly report for any well as prepared pursuant to subsection (a) of this Code section shall be used as a baseline for such statistics. Any subsequent drying up of the well according to monthly reported flow or increase in levels of monthly reported contaminants shall be presumed to have been caused by the operator of the rock quarry for purposes of any administrative action brought by the director against the quarry operator; and unless such presumption is rebutted by a preponderance of evidence, such operator shall be subject to a civil penalty, the same as provided by Code Section 12-5-52 for violations of Article 2 of Chapter 5 of this title.

(c) For any rock quarry for which a surface mining permit has been issued under this part but for which blasting has not commenced, a hydrology study shall be made, pursuant to the owner's request, and a baseline report of flows and contaminants for any well within the area described by subsection (a) of this Code section shall be performed in the same manner provided by subsection (a) of this Code section prior to the commencement of blasting.

(d) Any damage to the person or property of any owner of property adjacent to the quarry which occurs concurrently with blasting at the quarry shall be rebuttably presumed to have been caused by such blasting for purposes of any administrative action brought by the director against the quarry operator and shall cause the operator of such rock quarry, regardless of what entity performed the blasting, to be subject to a civil penalty, the same as provided by Code Section 12-4-83."

#### SECTION 4.

Said title is further amended by revising subsection (a) of Code Section 12-4-83, relating to civil penalties relative to surface mining violations, procedure for imposing penalties, hearings, judicial review, and disposition of recovered penalties, as follows:

"(a) Except as provided in subsection (c) of this Code section, any mining operator violating any provision of this part or any of the rules and regulations promulgated pursuant to this part, or who negligently or intentionally fails or refuses to comply with any final order of the director of the division, shall be liable for a civil penalty not to exceed ~~\$1,000.00~~ \$25,000.00 for such violation and an additional civil penalty not to exceed ~~\$500.00~~ \$5,000.00 for each day during which such violation continues."

**SECTION 5.**

Said title is further amended by revising the introductory language and paragraphs (1) and (2) of Code Section 12-7-17, relating to exemptions from certain provisions for control of soil erosion and sedimentation, as follows:

"This chapter shall not apply to the following activities:

(1) Surface mining, as the same is defined in Code Section 12-4-72, except for rock quarrying;

(2) ~~Granite~~ Dimension stone quarrying and land clearing for such quarrying;"

**SECTION 6.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 7.**

All laws and parts of laws in conflict with this Act are repealed.